

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2037 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ALKABEN DEVABHAI PARMAR

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MR UM SHASTRI for Petitioner

MR DA BAMBHANIA for Respondent No. 1

MR PARESH UPADHYAY for Respondent No. 2

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 10/01/97

ORAL JUDGEMENT

Rule.

Heard the learned advocates for both the sides at length on merits, and, therefore, at this stage I proceed to finally dispose of this petition.

2. The petitioner Alkaben Devabhai Parmar had appeared for S.S.C. Examination through Navchetan

English School, Bahi, Tal. Sahera, Dist : Panchmahals, held in March, 1993. Her results were declared and she was declared having passed the said examination and she also received her marksheet, but she felt that the marks given to her were less and her expectation was for higher marks. Therefore, she applied for rechecking of her marks. It is her further claim that her application for rechecking was allowed and she was given higher marks. She produced the said fresh marksheet and obtained admission for P.T.C. Course. It seems that thereafter, it was transpired that the marksheet which she had produced in order to show that she had obtained higher marks was a forged and fabricated document, and, therefore, the Deputy Director of Education, Government of Gujarat issued direction to cancel her admission for P.T.C. course. It seems that there was detection of such forged and fabricated marksheets in other cases and the said affair of forged and fabricated marksheet is subject matter of a criminal proceeding and investigation was also directed and the same was pending when this petition was filed.

3. But after the cancellation of her admission for P.T.C.Course, she applied for getting admission for 11th standard and she was given provisional admission for the class of 11th standard. The respondent No.2 Principal of Navchetan English School had informed the authorities to clear her admission for 11th standard, as the same was provisionally given. An undertaking was also taken from her that admission to her for 11th standard was also given provisionally. But it seems that no decision was taken by the respondent No.1 or his office on the report moved by respondent No.2 as regards giving provisional admission to the present petitioner. As no decision was intimated either to the petitioner or to the respondent No.2, the petitioner appeared for the annual examination of 11th standard and she had also passed the said examination. Then, she got admission in the 12th standard and when she was about to appear for the 12th standard examination, she was informed that her provisional admission in 11th standard was cancelled. Consequently, the respondent No.2 also informed her that it could not be said that she had clear the examination of 11th standard and she cannot appear for the Board examination of 12th standard and hence, she has come before this court.

4. She was granted interim relief to appear for the examination of 12th standard and it has been submitted at the bar that she had successfully passed the said 12th standard examination of the Board and she has also taken

admission for further course.

5. No doubt, the petitioner was given provisional admission for 11th standard and the said provisional admission ought to have been confirmed by the respondent No.1 or his office, but when such an action is to be taken by the respondent No.1 or his office, it is expected that the said action would be taken immediately or within a reasonable period. The conduct of the respondent No.1 in not taking any decision on the said report of respondent No.2 till the annual examination of 11th standard was over and till half of the academic year of 12th standard was over is not at all justified. There is no dispute of the fact that on the original marksheet she was eligible to get admission for standard 11th and she was given the admission in 11th standard on the said original marksheet. It is not the claim of the either respondent No.1 or respondent No.2 that she was disqualified or not eligible for getting admission for 11th standard. The respondent No.1 has cancelled the provisional admission given to her after she had passed the annual examination of 11th standard only on the ground that already a criminal proceeding is going against her. The said action of the respondent No.1 could not be justified because when she was eligible for getting the admission for 11th standard on the original marksheet and she had obtained the admission for 11th standard on the original marksheet. Only because she had made an attempt to get an admission for the P.T.C. course on account of a marksheet which is said to have been forged and fabricated document, it could not be said that she was not eligible to get admission for 11th standard. It is an admitted fact that till today there is no decision of a criminal court as regards the said alleged forged and fabricated marksheet. No rule or provision is cited before me to show that because of the pendency of the criminal proceeding a student could be denied the admission for a course to which he is otherwise eligible. Even convicted persons are now a days allowed and permitted to appear in the University Examinations. Therefore, in the circumstances, the action taken by the respondent No.2 in cancelling the admission of the petitioner for 11th standard and the consequential action taken by the respondent No.2 in cancelling her admission to 11th standard examination will have to be quashed and set aside.

6. I, therefore, allow the present petition and I declare and order that the quashing of the admission of the petitioner for 11th standard by the respondent No.1 and his office is set aside and consequently the action

taken by the respondent No.2 in cancelling her admission to 11th standard is also set aside. But in the circumstances, parties are directed to bear their own costs. Rule is made absolute.

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